

**RULES
OF
DEPARTMENT OF REVENUE
ADMINISTRATIVE DIVISION**

**CHAPTER 1320-1-2
TAXPAYER REMEDIES FOR DISPUTED TAXES**

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1320-1-2-.01 DATE OF THE NOTICE OF ASSESSMENT. When a taxpayer files suit against the Commissioner of Revenue challenging all or any portion of the tax assessment, the date of the mailing of notice of assessment shall be considered the date of the notice plus five (5) additional days thereafter.

Authority: T.C.A. §§67-1-102 and 67-1-1801. Administrative History: Original rule filed April 15, 1987; effective July 29, 1987. Amendment filed July 13, 1988; effective October 29, 1988.

1320-1-2-.02 CORPORATE SURETY BOND.

A corporate surety bond filed to meet the requirements of §67-1-1801 for a stay of collection shall be in a form as follows, containing the following terms and conditions:

**BOND FOR STAY OF COLLECTION
OF TAX ASSESSMENT**

RE: _____ (style of lawsuit) _____, Chancery Court for _____ County, Tennessee, No. _____
_____ (name of taxpayer), a _____ (corporation, organization, or individual) as principal and _____ (name of surety company), a corporation organized under the laws of the State of _____ and duly authorized by the Tennessee Commissioner of Insurance to engage in the surety insurance business in this state pursuant to Chapter 2 of Title 56 of Tennessee Code Annotated, as surety, are held and firmly bound unto the Tennessee Department of Revenue and acknowledge by this instrument their obligation to pay to said Tennessee Department of Revenue a sum not to exceed dollars (\$ _____) which is one hundred fifty percent (150%) of the amount of the tax assessment (including tax, interest and any applicable penalty) of _____ dollars (\$ _____) challenged by plaintiff in the above-referenced action.

This instrument is prepared for the purpose of filing in the above-referenced action to stay collection of the challenged tax pending final determination of the suit.

In the event the suit is withdrawn, nonsuited, or dismissed, or if final judgement thereon is rendered in favor of the Commissioner of Revenue as to all or any portion of the challenged assessment, both principal and surety hereunder shall, jointly and severally, satisfy such judgment amount in the case of final court determination, or in the case of dismissal, nonsuit, or withdrawal, the entire amount of the assessment challenged, plus interest subsequently accrued thereon, and any penalty assessed thereon.

Should the principal hereunder satisfy the assessment, including interest and penalty as described above, the surety's obligations hereunder to the Tennessee Department of Revenue will be discharged. Provided that nothing herein shall be construed to require the Commissioner of Revenue to seek payment from the principal prior to seeking payment from the surety hereunder and the obligation of the principal and surety to satisfy the tax assessment

(Rule 1320-1-2-.02, continued)

(including subsequently accrued interest) or judgment amount shall be joint and several up to the amount of this instrument.

This instrument shall remain in full force and effect for the benefit of the Tennessee Department of Revenue so long as any part of the challenged tax assessment or judgment amount remains outstanding and unsatisfied.

TAXPAYER: _____

BY: _____

TITLE

SURETY: _____

BY: _____

TITLE

Authority: T.C.A. §§67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 15, 1987; effective July 29, 1987. Repeal and new rule filed April 19, 1990; effective June 3, 1990.

1320-1-2-.03 IRREVOCABLE LETTER OF CREDIT.

An Irrevocable Letter of Credit filed to meet the requirements of §67-1-1801 for a stay of collection shall be in a form as follows, containing the following terms and conditions:

IRREVOCABLE LETTER OF CREDIT NO. _____

BENEFICIARY**APPLICANT**

State of Tennessee
Department of Revenue
Nashville, Tennessee

(Taxpayer's name
and address)

RE: _____ (style of lawsuit) _____, Chancery Court for
_____ County, Tennessee, No. _____.

Gentlemen:

We hereby issue in favor of the State of Tennessee, Department of Revenue, this irrevocable letter of credit which is available by presentment of your draft drawn at sight on _____ (name of issuing bank), subject to the condition that the draft be accompanied by a letter signed by the Commissioner of Revenue or his designate stating either:

(Rule 1320-1-2-.03, continued)

- (1) that the above-referenced lawsuit has been withdrawn or dismissed or terminated for any reason or that a judgment has been rendered in favor of the Commissioner of Revenue as to all or any portion of the challenged assessment; or,
- (2) that the above-referenced lawsuit is still pending and that notice has been given that this letter of credit will not be extended or replaced, and certifying that the Commissioner shall retain and deposit the proceeds of this letter of credit as collateral security for its assessments against the plaintiff, and shall return all remaining proceeds to the issuer after the assessment and all interest and penalties accrued thereon are extinguished.

SPECIAL CONDITIONS: A draft accompanied by the above statement concerning the nonextension or non-replacement of the credit shall not be honored if presented more than thirty (30) days prior to the original or any extended expiration date of this credit.

The amount of this letter of credit is _____dollars (\$_____), which is 150% of the amount of the challenged tax assessment (including tax, interest and any applicable penalty) of _____dollars (\$_____).

This original of this letter of credit must accompany any draft. Drafts drawn under this credit must be endorsed and contain the clause "Drawn under (Name of Issuer) Letter of Credit No. _____dated _____."

All documents must be presented to the issuer at the following address:

Except so far as otherwise expressly stated, this credit is subject to the Uniform Customs and Practice for Documentary Credits, 1983 Revision, IC Publication No. 400.

The issuer warrants that it is qualified under T.C.A. §67-1-1801 to issue this letter of credit and is a bank designated by the Treasurer of this State as an authorized depository bank for the deposit of state funds.

This letter of credit shall expire three years from date, but shall be automatically renewed for successive one-year periods, unless and until the issuer shall have delivered written notice of non-renewal to the beneficiary thirty (30) days or more prior to the then-pending expiration date.

(Name of Issuer)

BY: _____

TITLE: _____

Authority: T.C.A. §§67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 19, 1990; effective June 3, 1990.

1320-1-2-.04 NOTICE OF LIEN.

- (a) Notices of lien filed to obtain a stay of collection pursuant to T.C.A. §67-1-1801(c)(I)(C) must include either all of the taxpayer's property both real and personal, wherever situated, or unencumbered property of the taxpayer located in this state equal in value to at least one hundred fifty percent (150%) of the amount of the assessment or the portion thereof challenged by the suit. A notice of lien must be filed with the register of deeds of the county of the

(Rule 1320-1-2-.04, continued)

taxpayer's domicile or principal place of business in this state, the register of deeds of the county where the property is located, and the office of the Secretary of State.

- (b) The notice of lien filed with the register of deeds shall be in a form as follows, containing the following terms and conditions:

NOTICE OF STATE TAX LIEN

Pursuant to the provisions of T.C.A. §67-1-1801, a lien exists in favor of the State of Tennessee upon the following property (check one):

- ☐ All property wherever situated, both real and personal, and rights, title and interest in property acquired either prior to or subsequent to the filing of this notice, belonging to the hereinafter named taxpayer.
- ☐ Property located in Tennessee, otherwise unencumbered, and having a value equal to at least one hundred fifty percent (150%) of the amount of the assessment (including any penalty and interest) challenged in a lawsuit filed or to be filed by the taxpayer pursuant to the provisions of T.C.A. §67-1-1801.

This property is described as follows:

(description of property, value and exact location)

This lien is given for the purpose of obtaining a stay of collection of tax assessment (including penalty and interest) challenged by the taxpayer in a lawsuit filed or to be filed by the taxpayer pursuant to the provisions of T.C.A. §67-1-1801.

This lien secures the payment of _____ (amount of assessment, penalty and interest challenged in lawsuit) (\$_____) plus subsequently accrued interest.

The current amount of this lien may be obtained by inquiry of the Tax Enforcement Division of the Tennessee Department of Revenue.

Name of Taxpayer Account Number:

Account Number:

Residence or Place of Business:

County:

Witness my hand at _____, Tennessee, on the _____ day of _____, _____.

Taxpayer _____

By _____

* FOR REGISTER USE ONLY -PRINT OR STAMP *

BOOK NO.

PAGE NO.

DATE

TIME

REGISTER

BY: _____

(Rule 1320-1-2-.04, continued)

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- (c) A notice of lien must also be filed with the office of the Secretary of State. Notices of Lien filed in the office of the Secretary of State shall be filed in quadruplicate, on 5" x 8" blue paper, in a form as follows, containing the following terms and conditions:

**TAXPAYER'S VOLUNTARY GRANT OF LIEN
TO DEPARTMENT OF REVENUE**

Taxpayer's Name and Business Address:	Lienholder:	Date, Time, Number and Filing Office:
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Tennessee Department of Revenue
1200 Andrew Jackson Office Bldg.
Nashville, TN 37242

TAXPAYER ACCOUNT NO. _____

Description of Property Under Lien:

See attached
(attach copy of notice of lien
filed with register of deeds,
including attachments thereto)

Taxpayer's Signature

Date

- (d) If the taxpayer owns property, either real or personal in other states, a notice of lien must be filed in these states, in the office designated for the filing of liens on property in the county in which the property is located and in the office of the Secretary of State of the foreign state. Such notices shall contain the terms and conditions as provided in subparagraphs (b) and (c) and shall be in the same form to the extent possible to file a valid lien in that state.

Authority: T.C.A. §§67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 19, 1990; effective June 3, 1990.

1320-1-2-.05 REQUEST FOR INFORMAL CONFERENCE.

- (1) A request for an informal conference must be made in writing to the Tennessee Department of Revenue, Administrative Hearing Office, Andrew Jackson State Office Building, 500 Deaderick Street, Nashville, Tennessee 37242.

(Rule 1320-1-2-.05, continued)

- (2) The written request will be deemed timely:
 - (a) If made via United States mail and transmitted within (30) days after the date of Notice of Assessment. A request for an informal conference is a tax document and, when transmitted through the United States Postal mail, its timely filing date shall be determined in accordance with the provisions of T.C.A. § 67-1-107.
 - (b) If made via facsimile, electronic mail, or delivery service other than United States mail and received by the Department on or before thirty (30) days after the date of the Notice of Assessment.
- (3) The day that a Notice of Assessment is dated shall not be included in calculating the thirty (30) days.
- (4) In the event that the thirtieth (30th) day following a Notice of Assessment falls on a Saturday, a Sunday, a legal holiday, or a day when state offices in Nashville are closed, the thirty (30) day period shall run at the end of the next day which is not a Saturday, a Sunday, a legal holiday, or a day when state offices in Nashville are closed.
- (5) The person designated to respond to the issues contested at the informal conference, shall sign and date the letter by which the taxpayer or his representative is advised of the decision(s) made on the issues(s) contested at the conference. The signature date shall be considered the date the informal conference decision is issued.

Authority: T.C.A. §§ 67-1-102(A), 67-1-107, 67-1-1801, 1-3-102 and 15-1-101. **Administrative History:** Original rule filed June 28, 2000; effective September 11, 2000.